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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/663,889	09/16/2003	Kerry Stephen McClure	27735-11	4514

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EXAMINER	
LARSON, JUSTIN MATTHEW	
ART UNIT	**PAPER NUMBER**
3727	

DATE MAILED: 08/10/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	10/663,889	MCCLURE ET AL.	
	Examiner	Art Unit	
	Justin M. Larson	3727	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *15 May 2006*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-25 and 27* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-25 and 27* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

1. In this Office action, Examiner has set forth rejections with respect to the subject matter of claims 4, 5, 7, 9, and 10 which was previously indicated as allowable, thereby making this action non-final.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

3. Claims 1-4, 6-8, 11, 14-21, and 27 are rejected under 35 U.S.C. 102(b) as being anticipated by Fukushima et al. (2001/0052712).

Regarding claim 1, Fukushima et al. discloses a vehicle having a support structure comprising: a shell (14, Figure 3) attached to the vehicle, the shell including first and second end portions and a bottom portion extending at least partially between the first and second end portions (Figure 6), the shell at least partially defining a storage chamber and including an opening providing access to the storage chamber, the opening being adjacent to the first end portion (Figure 6); a support member (1) internally contained within the vehicle (contained within the shell which is part of the vehicle, thus contained within the vehicle), the support member being slidably positioned above the bottom portion and movable back and forth along a movement path from a first position (Figure 1) in which the support member is substantially disposed within the shell and a second position (Figure 2) in which the support member

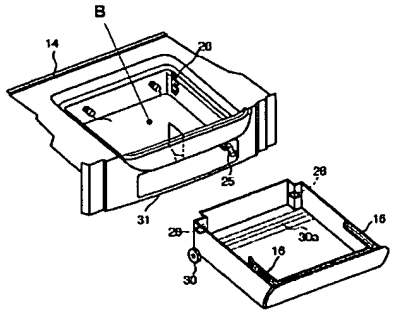
is at least partially disposed outside the shell, the support member including a lower interface surface for directly contacting an upper interface surface (17) of the bottom portion of the shell in sliding engagement as the support member is moved along the movement path (col. 5 lines 50-53); and a retention member (26) fixedly attached to the shell, the retention member interfacing a side section of the support member and configured to permit sliding movement of the support member along the movement path with respect to the shell (col. 6 lines 65+), and being operative to limit movement of the support member with respect to the shell in at least one direction substantially perpendicular to the movement path.

Regarding the system being used to support a spare tire, the initial statement of intended use and all other functional implications have been carefully considered but are deemed not to impose any patentably distinguishing structure over that disclosed by Fukushima et al. which is capable of being used in the intended manner, i.e., to hold a spare tire in a sliding vehicle compartment. There is no structure in Fukushima et al. that would prohibit such functional intended use (see MPEP 2111).

Regarding claim 2, the second end portion of the shell as disclosed by Fukushima et al. includes rounded corners (Figure 6), the round shape corresponding to the round shape of a spare tire in that both are round or curved, effectively satisfying the limitations of the claim.

Regarding claim 3, Fukushima et al. discloses stoppers (15) configured to engage the support member, the stoppers being disposed adjacent to the second end portion of the support member, effectively satisfying the limitations of the claim.

Regarding claim 4, the support member of Fukushima et al. includes an outwardly projecting protrusion (28) and the bottom portion (B, Figure below) of the shell includes an inwardly extending recess (26) adapted to receive the protrusion.



Regarding claims 6 and 7, Fukushima et al. discloses an outer edge (rear wall, adjacent retention members 15) on the support member, the outer edge extending outwardly and generally perpendicularly from the movement path. The outer edge interfaces with the retention members when the support member is in the first position.

Regarding claims 8 and 11, the retention members (two each of 15 or 26) of Fukushima et al. are in fact components of, or constituents of, the shell. Therefore Examiner considers these retention members to satisfy at least on definition of being integral with the shell, effectively satisfying the limitations of the claim.

Regarding claim 14, the shell of Fukushima et al. clearly has two sidewalls, or side portions, extending between the front and back walls, or the first and second end portions of the shell, effectively satisfying the limitations of the claim.

Regarding claim 15, Fukushima et al. disclose the support member and shell having a cooperative locking configuration (26/28/16/32a) for substantially inhibiting sliding movement of the support member relative to the shell along the movement path when the support member is at the first position, wherein a portion (16/32a) of the

cooperative locking configuration provided by the support member is further configured for substantially inhibiting sliding movement of the support member relative to the shell along the movement path when the support member is at the second position.

Regarding claims 16 and 21 Fukushima et al. discloses a locking configuration (26/28/16/32a) for substantially inhibiting sliding movement of the support member relative to the shell along the movement path when the support member is selectively positioned relative to the shell. In order to function properly, the locking members (26 & 32a) on the shell must be aligned with the mating locking members (28 & 16) on the support member, effectively acting as a complementary geometry, and satisfying the limitations of the claim.

Regarding claim 17, the complementary geometry (26/28/16/32a) of Fukushima et al. includes a flange (28) and the locking member (26) has a recess for receiving the flange (see Figures 6 & 8).

Regarding claim 18, the bottom portion (B, Figure above) of the shell of Fukushima et al. includes the recessed region (26).

Regarding claim 19, Fukushima et al. disclose two complementary geometry sets (26/28/16/32a, Figure 6), which would include one recess in each of the locking mechanisms (26), effectively satisfying the limitations of the claim.

Regarding claim 20, the cooperative locking configuration (26/28/16/32a) of Fukushima et al. comprises an edge (28) protruding from support member (1) (Figure 8), the protruding edge effectively holding the support member in place when locked

with member (26), satisfying at least one definition of the word "flange." Therefore, Examiner considers the limitations of the claim to be satisfied.

Regarding claim 27, Fukushima et al. disclose a retention member (26) fixedly attached to the shell, the retention member interfacing a side section of the support member and configured to permit sliding movement of the support member along the movement path with respect to the shell (col. 6 lines 65+), and being operative to limit movement of the support member with respect to the shell in at least one direction substantially perpendicular to the movement path.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

5. Claims 5, 12, 13, and 22-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fukushima et al. in view of Kennedy (4,676,415).

Regarding claims 22 and 23, Fukushima et al. discloses the claimed invention except for the aligned arrangement including apertures adapted to receive a locking member to inhibit sliding movement of the support member relative to the shell and the locking member comprising at least one of a pin and a rod.

Kennedy, however, discloses a spare tire support system that includes a spare tire support member adapted to slide between two positions in the trunk of a car. Kennedy teaches that the spare tire support member can be locked in place and thus

prevented from sliding using a locking pin (92) through apertures in both the spare tire support member and the shell in which it slides (Figure 2).

It would have been obvious to one having ordinary skill in the art at the time the invention was made to modify the support structure of Fukushima et al. by either replacing the locking configuration (26/28) with an art equivalent locking configuration, such as that taught by Kennedy, or by adding another locking configuration in addition to the already existing locking configuration, the new locking configuration involving a locking pin and apertures, as taught by Kennedy, in order to further prevent the support member from sliding within the shell.

Regarding claims 12, 13, 24 and 25, Fukushima et al. fails to disclose the vehicle being a pickup truck and the support structure being attached to a bed of a pickup truck. Kennedy, however, teaches that it is already known in the art to attach sliding storage compartments to the beds of pickup trucks (Figures 1-3). It would have been obvious to one having ordinary skill in the art at the time the invention was that the support structure of Fukushima et al. could be implemented in any number of vehicles, including being attached underneath the beds of pickup trucks, as taught by Kennedy, in order to store a spare tire in the vehicle for use by the vehicle operator in case of an emergency.

Regarding claim 5, Fukushima et al. discloses the claimed invention except the support member has the projection and the shell has the recess, rather than the support member having the recess and the shell having the projection. It would have been obvious to one having ordinary skill in the art at the time the invention was made to form the recess on the support member and the projection on the shell, since it has been

held that a mere reversal of the essential working parts of a device involves only routine skill in the art. In re Einstein, 8 USPQ 167.

6. Claims 9 and 10 are rejected under 35 U.S.C. 103(a) as being unpatentable over Fukushima et al. in view of Pilliod (US 5,484,198 A).

Fukushima et al. disclose the claimed invention except for the retention member including a wheel or rotating member. Note that Fukushima et al. disclose rollers (30) that help the support member slide in the sliding direction and also a stop (25) to limit the support member's withdrawal from the shell (col. 7 lines 35-42).

Pilliod also discloses a support member (drawer) and shell (52) system and teaches that rollers (40) may be attached to the shell to interact with a guide rail (10) implemented on the side of the support member in order to facilitate the support member's sliding movement, like those of Fukushima et al., wherein the guide member is configured to limit withdrawal of the support member from the shell, like the stop member (25) of Fukushima et al. It would have been obvious to one having ordinary skill in the art at the time the invention was made to replace the rollers and stop member of Fukushima et al. with a guide structure, such as that taught by Pilliod, since both structures help the support member slide in the sliding direction and limit the support member's withdrawal from the shell.

Response to Arguments

7. Applicant's arguments filed 5/15/06 have been fully considered but they are not persuasive.

Applicant has asserted that Fukushima et al. fails to disclose a support member internally contained within the vehicle. Examiner maintains the position that the drawer/tray (1) of Fukushima et al. is an equivalent to the support member as claimed by Applicant. In its first stored position, the drawer/tray (1) of Fukushima et al. is internally contained within the structural perimeter of the vehicle and is therefore effectively contained within the vehicle.

Conclusion

8. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The cited art relates to vehicle storage compartments/drawers, as well as drawers in general.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Justin M. Larson whose telephone number is (571) 272-8649. The examiner can normally be reached on Monday - Thursday, 7am - 5pm. If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Nathan J. Newhouse can be reached on (571) 272-4544. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should

you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

JML
7/31/06